

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESale PRICE)	
LITIGATION)	MDL No. 1456
)	Civil Action No. 01-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	Hon. Patti Saris
)	
<i>United States of America, ex rel. Ven-a-Care</i>)	Magistrate Judge Marianne Bowler
<i>of the Florida Keys, Inc., v. Abbott</i>)	
<i>Laboratories Inc.</i>)	
CIVIL ACTION NO. 06-11337-PBS)	

**UNOPPOSED MOTION BY THE UNITED STATES' FOR LEAVE
TO FILE POST-HEARING NOTICE OF SUPPLEMENTAL
AUTHORITY RELATING TO ABBOTT'S MOTION TO COMPEL
ADEQUATE RESPONSES TO ABBOTT'S DISCOVERY REQUESTS**

Pursuant to Rule 7.1(b)(3) of the Local Rules for the District of Massachusetts, and this Court's Order dated September 11, 2006 (Dkt. 3090), the United States moves the Court for leave to file a post-hearing notice of supplemental authority in support of the opposition to Abbott's motion to compel adequate responses to Abbott's discovery requests. The proposed notice is attached to this motion as Exhibit A. The undersigned has conferred with counsel for Abbott, who indicated that Abbott does not oppose the United States' request for leave to file a post-hearing notice of supplemental authority.

At the hearing on Abbott's Motion to Compel Adequate Response to Abbott's discovery Requests held on July 20, 2007, the Court stated that it would take various issues under advisement. In particular, the Court expressed an interest in reviewing the case law relating to the question of whether a list of persons interviewed or questioned during the Government's investigation of relator's *qui tam* allegations would be protected by the work product doctrine.

In the attached notice, the United States cites decisions which all pertain directly to that issue.

Based on the foregoing, the United States requests that the Court enter an Order permitting it to file and serve the attached post hearing notice.

Respectfully Submitted,

For the United States of America,

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

PETER D. KEISLER
ASSISTANT ATTORNEY GENERAL

George B. Henderson, II
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
Phone: (617) 748-3272
Fax: (617) 748-3971

/s/ Justin Draycott
Joyce R. Branda
Daniel Anderson
Renée Brooker
Justin Draycott
Gejaa T. Gobena
Rebecca Ford
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 305-9300
Fax: (202) 307-3852

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

/s/ Mark A. Lavine
Mark A. Lavine
Ana Maria Martinez
Ann St.Peter-Griffith
Special Attorneys for the Attorney General
99 N.E. 4th Street, 3rd Floor
Miami, FL 33132
Phone: (305) 961-9003
Fax: (305) 536-4101

For Ven-A-Care of the Florida Keys, Inc.,

/s/ James J. Breen
James J. Breen
The Breen Law Firm, P.A.
3350 S.W. 148th Avenue, Suite 110
Miramar, FL 33027
Tel: (954) 874-1635
Fax: (954) 874-1705
Email: jbreen@breenlaw.com

Dated: July 24, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above **MOTION BY THE UNITED STATES' FOR LEAVE TO FILE POST-HEARING NOTICE OF SUPPLEMENTAL AUTHORITY RELATING TO ABBOTT'S MOTION TO COMPEL ADEQUATE RESPONSES TO ABBOTT'S DISCOVERY REQUESTS** to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: July 24, 2007

/s/ Justin Draycott
Justin Draycott